

OFFICIAL COPY

Fresno, California

October 5, 2004

The City Council met in regular session at the hour of 8:31 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
Jon Ruiz, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Reverend Bruce Hood, Feed My Sheep Ministries, gave the invocation and President Castillo led the Pledge of Allegiance.

SPCA PET OF THE MONTH

The pet of the month, a gray kitten, was profiled.

PROCLAMATION OF AL SMITH DAY - COUNCILMEMBER DUNCAN

PROCLAMATION OF DISABILITY AWARENESS MONTH - COUNCILMEMBER DAGES

The above proclamations were read and presented.

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APPROVE MINUTES OF SEPTEMBER 28, 2004

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the minutes of September 28, 2004, approved as submitted.

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COUNCIL MEMBER REPORTS AND COMMENTS:

(1) BETHEL LUTHERAN CHURCH'S 90TH ANNIVERSARY CELEBRATION, AND (2) THANK YOU TO LOCAL CONSERVATION CORP, ECONOMIC OPPORTUNITIES COMMISSION AND CITY STAFF FOR CLEAN UP OF GOLDEN STATE BOULEVARD - COUNCILMEMBER STERLING

Councilmember Sterling commended all involved with the anniversary celebration event and for the clean up efforts on Golden State.

COMMENDATION/THANK YOU TO CITY MANAGER FOR THE CHURCH/CLOVIS AVENUE LANDSCAPING MAINTENANCE DISTRICT AND CLEAN UP, PHILLIP WEATHERS AND VOLUNTEERS FOR CLEAN UP AROUND THE FRESNO FAIR, AND INVITATION TO ALL TO ATTEND THE FRESNO FAIR - COUNCILMEMBER DAGES

Commendation/invitation made.

144-110

10/5/04

PROBLEM OF ILLEGAL/INOPERABLE VEHICLES/TRAVEL TRAILERS PARKED ON CITY STREETS AND MOVED A FEW FEET BY OWNERS AFTER BEING CITED - COUNCILMEMBER DAGES

Councilmember Dages spoke to the problem and questioned what could be done to change the code, with City Attorney Montoy stating she would look into the issue and discuss the matter with the city manager. (*Note - Just before approval of the agenda, City Manager Hobbs and Interim Public Works Director Kirn responded to questions of Acting President Perea relative to who handles complaints on inoperable vehicles.)

REMINDER TO COUNCIL TO ATTEND THE LUNCH AND TOUR OF THE VETERAN'S MUSEUM THIS DATE AT NOON - COUNCILMEMBER CALHOUN

Reminder made.

COMMENDATION TO BETHEL LUTHERAN CHURCH ON THEIR 90TH ANNIVERSARY - COUNCILMEMBER BOYAJIAN

Commendation made with Councilmember Boyajian stating it was important for churches to stay downtown even though their congregation may dwindle somewhat.

CONCERN WITH LOSS OF YOUTH CENTER AT DICKEY PLAYGROUND - COUNCILMEMBER BOYAJIAN

Councilmember Boyajian stated he was disturbed with the lack of leadership in the development department relative to conducting CEQA analysis and EIRs stating the lack of that cost the city a major case at Dickey Playground, and stated if the city loses the Chicano Youth Center it would be a detriment to the youth and stabilization of the area.

INVITATION TO DOWNTOWN MURALS UNVEILING AND CELEBRATION ON OCTOBER 7TH ON FULTON STREET SOUTH OF DIVISADERO - ACTING PRESIDENT PEREA

Invitation extended.

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APPROVE AGENDA:

Barbara Hunt, 2475 S. Walnut, spoke in support of Items 1-A, 1-E, 1-F, 1-G and 1-L stating the fire and police departments needed all the help, support and equipment they could get to do their job and protect the community.

(2:40 P.M.) HISTORIC PRESERVATION - CONSIDER NOMINATIONS TO THE LOCAL REGISTER OF HISTORIC RESOURCES

a. RESOLUTION - DESIGNATING BENHAM ICE CREAM COMPANY/DALE BROTHER'S COFFEE COMPANY, LOCATED AT 1420 AND 1432 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES (HISTORIC PRESERVATION COMMISSION RECOMMENDATION)

b. RESOLUTION - DESIGNATING BENHAM ICE CREAM COMPANY/DALE BROTHER'S COFFEE COMPANY, LOCATED AT 1420 AND 1432 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES (STAFF RECOMMENDATION)

c. RESOLUTION - DESIGNATING THE DALE BROTHER'S COFFEE CAN SIGN, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES (*NOTE - Discussed again later)

Matthew Maroot, 1432 H Street, requested the above item be continued two weeks due to additional information that has been brought forth.

(4:30 P.M.) CONTINUED HEARING ON THE PLANNING COMMISSION'S DECISION REGARDING CONDITIONAL USE PERMIT (CUP) APPLICATION NO. C-02-226, AND ENVIRONMENTAL FINDINGS, FILED BY WILKINS ENTERPRISES (REQUEST TO CONTINUE TO DECEMBER 14, 2004, AT 4:30 P.M.)

Councilmember Calhoun stated he wanted it made clear this item was being continued and would not be heard at 4:30 p.m., with City Attorney Montoy clarifying the request to continue was part of the agenda title and Council approval of the agenda would continue the item.

CHANGE IN COUNCIL MEETING SCHEDULE DUE TO HOLIDAYS AND ELECTION - COUNCILMEMBER CALHOUN

(OFFICIAL CANCELLATION OF THE NOVEMBER 16, 2004, COUNCIL MEETING)

144-111

10/5/04

Councilmember Calhoun spoke to the city clerk's e-mail on proposed changes to the meeting schedule and requested feedback from Council, specifically on the lack of a meeting on November 16th stating he felt Council might need to meet that day due to full agendas and long meetings recently. President Castillo stated he supported meeting on November 16th. City Manager Hobbs stated he would prefer that Council not meet that date and advised he would work with staff to tighten the agenda and added Council may just have to meet an extra hour on the 9th and 30th. Councilmember Duncan concurred with the city manager, stated the city could get by fine without having a meeting every week, and urged Council to get their questions on items answered by staff *beforehand* which would save time. Councilmember Boyajian stated he concurred with the city manager and Councilmember Duncan. Brief discussion ensued on scheduling November 16th as a tentative meeting and on whether there were any items that needed to be addressed by the end of the month, with Mr. Hobbs responding.

On motion of Councilmember Boyajian, seconded by Councilmember Duncan, duly carried, RESOLVED, the meeting of November 16, 2004, officially cancelled, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea
 Noes : Sterling, Castillo
 Absent : None

(2:40 P.M.) HISTORIC PRESERVATION - CONSIDER NOMINATIONS TO THE LOCAL REGISTER OF HISTORIC RESOURCES

- a. RESOLUTION - DESIGNATING BENHAM ICE CREAM COMPANY/DALE BROTHER'S COFFEE COMPANY, LOCATED AT 1420 AND 1432 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES (HISTORIC PRESERVATION COMMISSION RECOMMENDATION)**
- b. RESOLUTION - DESIGNATING BENHAM ICE CREAM COMPANY/DALE BROTHER'S COFFEE COMPANY, LOCATED AT 1420 AND 1432 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES (STAFF RECOMMENDATION)**
- c. RESOLUTION - DESIGNATING THE DALE BROTHER'S COFFEE CAN SIGN, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- d. RESOLUTION - DESIGNATING THE CEARLY-TWINING HOME, LOCATED AT 625 E. HOME AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- e. RESOLUTION - DESIGNATING THE NIS JOHNSON HOME, LOCATED AT 601 E. PINE AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- f. RESOLUTION - DESIGNATING SHAM'S RIO GRANDE SERVICE STATION, LOCATED AT 205 FULTON STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**

Acting President Perea made a motion to continue the above item two weeks. Upon question of President Castillo, Planning & Development Director Yovino clarified there were issues relative to items "a" and "b", advised staff was ready to proceed on the remaining items, and advised of a letter received by Mr. Maroot on the "a" and "b" items. Acting President Perea modified his motion to continue only items "a" and "b" for two weeks. Mr. Yovino responded to questions of Councilmember Calhoun and President Castillo relative to why the Maroots wanted a delay and what the specific issues were, whereupon City Attorney Montoy advised Council was getting into the issue too much and recommended action be taken on the motion on the floor.

On motion of Acting President Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the above Items "a" and "b" continued two weeks, by the following vote:

Ayes : Dages, Duncan, Perea, Sterling
 Noes : Boyajian, Calhoun, Castillo
 Absent : None

****The Fresno High School Marketing class was recognized and welcomed, and their teacher, Mr. Verduzco, spoke briefly.**

(2-C) RESOLUTION - DETERMINING TO ABANDON FRESNO COUNT SUPERIOR COURT CASE NO. 03CECG02180 DSB, FOR "EMINENT DOMAIN PROCEEDINGS" AUTHORIZED BY COUNCIL RESOLUTION NO. 2003-136 FOR THE SOUTHEAST CORNER OF INYO AND VAN NESS

- and -

(4-A-4) CLOSED SESSION/EXISTING LITIGATION - CASE NAME: CITY OF FRESNO V. CLIFFORD TUTELIAN, ET AL,

SUPERIOR COURT CASE NO. 03CECG02180 DSB

City Attorney Montoy stated last minute details arose on the above two items and at her request and by Council consensus the items were continued two weeks.

144-112

10/5/04

A motion and second was made to approve the agenda **(2 -0)**.

(4:30 P.M.) PLANNING COMMISSION DECISION ON CUP NO. C-02-226 FILED BY WILKINS ENTERPRISES

Councilmember Calhoun requested staff to work closely with his office due to changes in property owners so there is no mis-communication in the area.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the **AGENDA** hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

CONSENT CALENDAR:

Gloria Torrez stated consent items were not routine and needed to be discussed/voted upon separately; spoke in opposition to Item 1-A and the pollution LNG causes; relative to Item 1-B stated the contract should be awarded to the person who can best do the job and not necessarily the lowest bidder; relative to Item 1-D stated she supported the issue but also felt the funds should go towards helping the victims and explained; and relative to Item 1-I stated she wanted to see the city and HUD do something for the homeless and make them a priority.

Barbara Hunt, 2475 S. Walnut, spoke in support of Item 1-K, to southwest Fresno boundaries, and in opposition to Item 1-I.

Councilmember Calhoun pulled Items 1-B and I-I, Councilmember Sterling pulled Item 1-I, and Present Castillo pulled Item 1-E for separate discussion/action.

(1-A) AWARD A REQUIREMENTS CONTRACT IN THE AMOUNT OF \$1,318,789.52 TO CLEAN ENERGY OF SEAL BEACH, CA, FOR LIQUID NATURAL GAS (LNG) FUEL USED BY THE FLEET MANAGEMENT DIVISION TO FUEL LNG POWERED REFUSE TRUCKS

(1-C) AWARD A CONTRACT TO DAWSON-MAULDIN CONSTRUCTION OF HUNTINGTON BEACH, CA, IN THE AMOUNT OF \$244,265 TO CONSTRUCT WELL SITE IMPROVEMENTS AT PUMP STATION 320

(1-D) RESOLUTION NO. 2004-356 - AUTHORIZING THE ACCEPTANCE OF THE GRANT AWARD OF \$95,701 FROM THE STATE OFFICE OF EMERGENCY SERVICES FOR THE LAW ENFORCEMENT SPECIALIZED UNITS PROGRAM, VIOLENCE AGAINST WOMEN 2004 GRANT PROJECT

(1-F) RESOLUTION NO. 2004-357 - AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE THE AGREEMENT WITH THE OFFICE OF TRAFFIC SAFETY FOR THE HELP ELIMINATE ALCOHOL RE-OFFENDER TEAM (HEART) GRANT AWARD OF \$759,573

1. RESOLUTION NO. 2004-358 - 26TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$319,300 IN GRANT FUNDS FROM THE OFFICE OF TRAFFIC SAFETY TO THE POLICE DEPARTMENT TO FUND THE HEART GRANT PROJECT

2. RESOLUTION NO. 2004-359 - 9TH AMENDMENT TO PAR 2004-210 ADDING ONE POLICE OFFICER POSITION FOR THE HEART PROJECT

(1-G) AUTHORIZE AN AGREEMENT BETWEEN ONE BY ONE LEADERSHIP, FRESNO POLICE ACTIVITIES LEAGUE AND THE CITY OF FRESNO FOR THE MENTORING CHILDREN OF PRISONERS GRANT PROGRAM

1. RESOLUTION NO. 2004-360 - 23RD AMENDMENT TO AAR 2004-209 APPROPRIATING \$65,400 FROM ONE-BY-ONE

LEADERSHIP TO THE POLICE DEPARTMENT FOR ASSISTANCE IN ADMINISTERING THE MENTORING CHILDREN OF PRISONERS PROGRAM

2. RESOLUTION NO. 2004-361 - 11TH AMENDMENT TO PAR 2004-210 ADDING ONE COMMUNITY SERVICE OFFICER II POSITION AND ONE CADET I POSITION FOR FISCAL YEAR 2005 (8/1/04 THROUGH 6/30/05)

144-113

10/5/04

(1-H) APPROVE APPOINTMENTS OF NICOLE ZIEBA FROM THE CITY MANAGER'S OFFICE AND MARY JANE MINNEY FROM THE FINANCE DEPARTMENT TO THE DEFERRED COMPENSATION BOARD

(1-J) RESOLUTION NO. 2004-362 - APPROVING THE FINAL MAP OF TRACT NO, 5145 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, PROPERTY LOCATED SOUTH OF W. SHIELDS, NORTH OF W. CLINTON, WEST OF N. VALENTINE AND EAST OF N. BRAWLEY IN COUNCIL DISTRICT 3

1. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR SPECIAL SOLID WASTE SERVICE
2. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR TEMPORARY STORM DRAINAGE FACILITIES
3. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-K) APPROVE APPOINTMENT OF JOSEPH KITCHEN TO THE EDISON MERGER CITIZEN'S ADVISORY COMMITTEE - COUNCILMEMBER STERLING

(1-L) BILLS FOR ADOPTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE FIRE AND POLICE AND THE EMPLOYEES RETIREMENTS SYSTEMS

1. CLARIFICATION OF OPTIONAL FORMS OF SETTLEMENT AND THE ADDITION OF POST-RETIREMENT OPTIONAL FORMS OF SETTLEMENT:

- a. **BILL NO. B-93 - ORDINANCE NO. 2004-97** - REPEALING SECTION 2-1733, ADDING SECTIONS 2-1733 AND 2-1733.1, AND AMENDING SECTION 2-1740 IN THE FIRE AND POLICE RETIREMENT SYSTEM
- b. **BILL NO. B-94 - ORDINANCE NO. 2004-98** - REPEALING SECTION 2-1733A, ADDING SECTION 2-1733.1 AND 2-1733.1A, AND AMENDING SECTION 2-1740A IN THE FIRE AND POLICE RETIREMENT SYSTEM
- c. **BILL NO. B-95 - ORDINANCE NO. 2004-99** - REPEALING SECTION 2-1841.1 AND AMENDING SECTION 2-1848 IN THE EMPLOYEES RETIREMENT SYSTEM

2. COMMUNITY PROPERTY STATUS OF PRE-RETIREMENT SURVIVORSHIP BENEFITS AND MAKING TECHNICAL CORRECTIONS TO THE MARITAL DISSOLUTION PROVISIONS:

- a. **BILL NO. B-96 - ORDINANCE NO. 2004-100** - AMENDING SECTIONS 2-1738, 2-1739 AND 2-1740 IN THE FIRE AND POLICE RETIREMENT SYSTEM
- b. **BILL NO. B-97 - ORDINANCE NO. 2004-101** - AMENDING SECTION 2-1738A AND 2-1740A IN THE FIRE AND POLICE RETIREMENT SYSTEM
- c. **BILL NO. B-98 - ORDINANCE NO. 2004-102** - AMENDING SECTIONS 2-1846, 2-1847 AND 2-1848 IN THE EMPLOYEES RETIREMENT SYSTEM

(1-M) BILL NO. B -99 - ORDINANCE NO. 2004-103 - ADDING CHAPTER 22 TO THE FRESNO MUNICIPAL CODE ESTABLISH-ING CERTAIN PROCEDURES RESPECTING SPECIAL TAX DISTRICTS

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

(2-A) AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE ECONOMIC DEVELOPMENT

CORPORATION (EDC) SERVING FRESNO COUNTY FOR FISCAL YEAR 2005

Economic Development Director Burkhardt gave a brief overview of the issue and work plan measures as contained in the staff report as submitted. EDC Executive Director Spaur distributed their draft 5-year plan and requested Council's input, and along with past EDC Chairman Rich Olson spoke to the changes in the operation of the EDC and reasons therefor.

144-114

10/5/04

Barbara Hunt, 2475 S. Walnut, spoke in opposition to the issue stating citizens in need should be the priority for the funds.

Councilmembers Calhoun, Sterling and Duncan all spoke in support of the contract and commended the EDC.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the City Manager authorized to execute the agreement with the Economic Development Corporation Serving Fresno County for fiscal year 2005, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(9:30 A.M.) BILL NO. B-104 - REPEALING ARTICLE 2 OF CHAPTER 6 AND ADDING ARTICLE 2 TO CHAPTER 6 TO THE FRESNO MUNICIPAL CODE RELATING TO CABLE COMMUNICATIONS SYSTEMS

Councilmember Duncan recused himself from the proceedings due to a financial conflict of interest and left the meeting at 9:39 a.m.

Cable Franchise Renewal Working Group Chair Lynch advised staff had a conference call with Comcast and stated there were no further objections to introduction of the ordinance.

Speaking to the issue were: Kristine Walter, Comcast, who concurred a close resolution was currently being discussed and crafted and explained; and Barbara Hunt, 2475 S. Walnut, who spoke in support.

Mr. Lynch, City Attorney Montoy, Cable Consultant Sue Buske and Ms. Walter clarified issues and/or responded to questions raised by Acting President Perea, President Castillo and Councilmember Boyajian relative to what the urgency was with this issue, what the ordinance allows the city to do, if the ordinance might be amended in the future, if the public would still be allowed to provide input in the negotiations, the process including where the city started and where it was now, and what the issues were between the city and Comcast. Deputy City Attorney Coyle was commended for all his work on the issue.

On motion of Councilmember Boyajian, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. B-104 introduced before the Council and laid over, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	None
Absent :	None
Recused :	Duncan

(2-B) RESOLUTION NO. 2004-363 - ADOPTING A CITY OF FRESNO INVESTMENT POLICY FOR PUBLIC FUNDS FOR FISCAL YEAR 2004-2005

Councilmember Duncan returned to the meeting at 9:52 a.m. Treasury Officer Wiles gave an overview of the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-363 hereby adopted by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

144-115

10/5/04

(3-A) RESOLUTION NO. 2004-364 - OPPOSING PROPOSITION 68, THE GAMING REVENUE ACT OF 2004 - COUNCILMEMBER DUNCAN, MAYOR AUTRY AND ACTING PRESIDENT PEREA

Councilmember Duncan gave an overview of the issue and made a motion to adopt the resolution.

Barbara Hunt, 2475 S. Walnut, spoke in support of the resolution.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-364 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

(3-B) DISCUSSION AND DIRECTION TO SCHEDULE A NOVEMBER AND JANUARY COUNCIL AGENDA ITEM TO DISCUSS THE CURRENT AND FUTURE FEE STRUCTURE AND RESOURCES FOR PROVIDING CITY SERVICES - COUNCILMEMBER CALHOUN

Councilmember Calhoun stated the budget process would begin soon and spoke to the importance of dealing with fees up-front because of how they affect the budget, stated he wanted a workshop to be held so Council could listen to the Mayor and staff on the fee issue and subsidies due to the need to make plans, and recommended the first session be scheduled either before or after Christmas.

Barbara Hunt, 2475 S. Walnut, spoke to the fee issue **(3 - 0)**.

Upon question of Acting President Perea, Controller/Finance Director Quito stated she was a firm believer in open government and communication and supported the workshop as proposed. Councilmember Sterling spoke in support stating this would start important discussions early in the process. Councilmember Boyajian stated this was a good idea and he felt the consequences of actions/what agencies would be impacted by any action needed to be included. Councilmember Duncan stated he supported the concept of dealing with the fees first but felt January might be too early (as they usually come forth in May) and recommended Council let staff bring forth the Master Fee Schedule (MFS) first in the budget process and then have Council input. Upon question, Councilmember Calhoun clarified this was not about mandating or dictating but for Council to be a part of the process/give their input and let the public know about the significant subsidies the city provides, stated he wanted to hear the pros and cons of subsidies from staff early on, and made a motion to direct staff to schedule a workshop in late November/early December and again in late January to discuss the fee issue, which motion was seconded and acted upon after additional discussion. Ms. Quinto stated staff would be happy to facilitate a workshop to inform Council on how fees are calculated, etc., but expressed concern with Council telling staff which fees should or should not be included in the Mayor's proposed budget as that might be overstepping the lines of the Mayor's prerogative of presenting a budget. Upon question of President Castillo, City Attorney Montoy stated there was nothing prohibiting Council from giving the Mayor any input at any given time of the year or from holding a workshop on fees as the MFS interplayed with the budget but was not a part of it and further explained. City Manager Hobbs stated his translation was staff would lay out the structure and framework of the MFS and see where there are areas of common agreement/concerns/questions and talk it through. Relative to subsidies President Castillo stated he was very interested in finding out what percentage of fees are collected by certain departments and which fees are not adding 100% will never be collected. Upon question of President Castillo, Councilmember Calhoun stated he would leave the scheduling of a date up to staff and reiterated he wanted a session set sometime before the holidays and one in January only if Council decides another session is necessary.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to

schedule a workshop in late November/early December and again in late January, if desired, to discuss the fee issue, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(3-C) REQUEST FOR STATUS UPDATE ON CAPITAL IMPROVEMENT EXPENDITURES AT WOODWARD PARK - PRESIDENT CASTILLO

144-116

10/5/04

Request made by President Castillo with Assistant City Manager Souza advising the requested information was being delivered to Council in tray memo form this date including funding sources for each of the improvements. There was no further discussion.

(3-D) REQUEST FOR COUNCIL OVERRIDE VOTE OF RESOLUTION NO. 2004-331 VETOED BY MAYOR AUTRY ON SEPTEMBER 24, 2004 - PRESIDENT CASTILLO

1. RESOLUTION NO. 2004-331 - ESTABLISHING LEGISLATIVE POLICY RELATING TO THE "NO NEIGHBORHOOD LEFT BEHIND" PROJECT

President Castillo gave a brief overview stating his interest was to ensure Council's action are followed (Councilmember Calhoun left the dais at 10:25 a.m.), and stated he would not belabor the issue and called for a vote. Councilmember Duncan raised a point of order and noted Councilmember Calhoun had to step out briefly and asked for a delay in the vote so he could be present.

RECESS - 10:25 A.M. - 10:36 A.M.

President Castillo continued, spoke to Item I in the Fresno County Grand Jury Report on infrastructure funds and the city manager's response, expressed his concern stating Council made a huge decision to take money from their infrastructure budgets and allocate it to the No Neighborhood Left Behind but the city manager did not even acknowledge that decision in his response to the Grand Jury, and made a motion to override the Mayor's veto, which motion was seconded by Acting President Perea.

City Manager Hobbs stated everyone was committed to completing 71 neighborhoods in the next six years and creating some infrastructure justice, noted the disagreement was how to best execute that and spoke to the Pave Off proposal, and reiterated he was pleased that everyone was committed to taking care of the important business of 71 neighborhoods that have historically been left behind. President Castillo concurred everyone was looking for a positive outcome.

Councilmember Boyajian spoke to how he got "snookered" on this issue, stated he didn't care what the Grand Jury thought about what Council has done with their infrastructure funds and stressed he was proud of how he has spent them the past six years, stated he did not believe anyone could do this work but the city workers and explained, stated he hoped Council would increase their infrastructure budgets next year as \$50,000 was not nearly enough to deal with his districts' needs, and further elaborated on the NNLB program and Council's intent and decision. Councilmember Dages stated what was best for the taxpayer was being ignored, the taxpayer was the special interest, and the Pave Off would allow the taxpayer to find out who could do the work faster/better/cheaper, and upon his question Interim Public Works Director Kirn stated no permanent employees would be laid off if the Pave Off moves forward. Acting President Perea stated all he was interested in now was keeping on schedule, presented questions relative to whether the schedule would be adhered to, process/timeline on the city crews' bundle, and if the Pave Off was causing a delay in the start date, and requested a schedule of dates for the first year, with Mr. Kirn responding throughout. Councilmember Sterling stated she wanted the same information including which neighborhoods would be looked at first and clarified her vote this date was for consistency.

President Castillo stated if anyone did not believe that everything Council does is not in the best interest of the taxpayer was gravely mistaken and added no one should ever question any council member, spoke to Deputy Mayor Montero's comment relative to never being able to ascertain who can do the work better, stated city crews had an advantage that worked to the advantage of the taxpayer, and advised work would not begin until January because the private sector was being accommodated and city crews were being incapacitated and explained. Mr. Hobbs stated there were no foregone conclusions on the administration's side going into this exercise, they did not know what the outcome would be, and they looked forward to having some findings.

Barbara Hunt, 2475 S. Walnut, spoke in support of the override.

A motion of President Castillo, seconded by Acting President Perea, to override the Mayor's veto of Resolution No. 2004-331 failed, due to the need for five affirmative votes, by the following vote:

Ayes : Boyajian, Perea, Sterling, Castillo
 Noes : Calhoun, Dages, Duncan
 Absent : None

144-117

10/5/04

(10:30 A.M.) CONSIDER ENVIRONMENTAL IMPACT REPORT NO. 10132 (STATE CLEARINGHOUSE NO. 2002071074) FILED BY THE CITY OF FRESNO PUBLIC WORKS DEPARTMENT FOR THE WIDENING OF N. CHESTNUT AVENUE TO FOUR LANES BETWEEN E. SHAW AND E. BULLARD (PROJECT LOCATED WITHIN THE HOOVER COMMUNITY PLAN AREA AND COUNCIL DISTRICT 4)

1. RESOLUTION NO. 2004-365 - CERTIFYING FOCUSED EIR NO. 10132 FOR THE PROPOSED WIDENING OF N. CHESTNUT TO FOUR LANES BETWEEN W. SHAW AND E. BULLARD AVENUES

Design Services Manager Mozier reviewed the issue as contained in the staff report as submitted.

Steven Peck, Quad Knopf, spoke to the project impacts and mitigation measures at length **(4 - 0)**.

Speaking in support of the issue were: Barbara Hunt, 2475 S. Walnut; Robert Byrd, Director of Facilities Management, CSUF; and Dan Bartel, Dean of the College of Agricultural Sciences and Technology, CSUF.

Discussion ensued with Mr. Mozier, City Manager Hobbs and Mr. Peck responding to questions of Councilmembers Dages and Boyajian relative to the Peach Avenue project including it being a safety issue and if could be made a priority over Chestnut, if the subject project was contingent upon State dollars, if the eucalyptus trees would be replaced, if cumulative impacts were really looked at, if a hotel would require an EIR, if this project would impute other projects, and mitigating air quality.

Councilmember Duncan stated this was a fine project and he hoped it would get funding and made a motion to approve staff's recommendation. President Castillo stated he agreed Peach Avenue should be a priority over Chestnut and requested staff include in their report a list of priorities, with Interim Public Works Director Kim responding.

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-365 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(10:40 A.M.) HEARING ON REZONE APPLICATION NO. R-04-32 AND ENVIRONMENTAL FINDINGS, FILED BY QUAD KNOPF ON BEHALF OF CENTEX HONES, 35 ACRES OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF E. HAMILTON AND S. ARMSTRONG AVENUES IN COUNCIL DISTRICT 5

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-04-32/T-5290

2. BILL NO. B-105 - ORDINANCE NO. 2004-104 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM AE-5/UGM TO R-1/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Chamberlain reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were an unidentified Quad Knopf representative who stated he was available to answer any questions, and Barbara Hunt, 2475 S. Walnut, who spoke in support.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Boyajian stated he could not support the negative declaration and added this was a project within CEQA and there should have been an EIR, and Planner Unruh responded to a question of President Castillo relative to when a CFD vote would come forth.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. R-04-32/T-5290 dated August 24, 2004, hereby approved, and the above entitled Bill No. B-105 rezoning the subject property adopted as Ordinance No. 2004-104, by the following vote:

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Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : Boyajian
 Absent : None

(4.) CLOSED SESSION:

A. CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAMES:

1. BOBBY BURTON V. COF, ET AL.
2. JOANNE BLACK V. COF, ET AL.
3. (a) OLD HAMMER FIELD/AIR TERMINAL ("OHF") ENVIRONMENTAL SITE; (b) BAKMAN WATER COMPANY, INC., v. BOEING NORTH AMERICAN, INC., COF, ET AL., CIV-F-01-6249 REC DLB

C. CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. CITY OF FRESNO PROFESSIONAL EMPLOYEES' ASSOCIATION (CFPEA)
2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)
3. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39
4. FRESNO POLICE OFFICERS' ASSOCIATION (FPOA MANAGEMENT UNIT)

The City Council met in closed session at the hour of 11:32 a.m. and recessed for lunch thereafter.

LUNCH RECESS - 12:00 NOON - 2:02 P.M. Councilmember Boyajian was not present.

ANNOUNCEMENT RE: CASE OF LILES-DRIVER - REQUEST TO ADD ITEM TO THE AGENDA

City Attorney Montoy announced there was a settlement conference this morning in the case of Liles-Driver v. COF, stated there was a need to take immediate action as trial was scheduled for October 18th and Council would not meet again until October 19th, and advised pursuant to the Brown Act an item could be added to the agenda by a two-thirds vote and requested the Liles-Driver v. COF case be added to the agenda to be heard this afternoon.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the Case of Liles-Driver v. City of Fresno hereby added to the agenda under closed session, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : Boyajian

The City Council reconvened in closed session at the hour of 2:05 p.m. to continue their consideration of the above items and the newly added item and reconvened in regular open session at 3:15 p.m. with all members present.

(4-B) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - TITLES: CITY CLERK AND CITY ATTORNEY

Not held.

Councilmember Calhoun noted the evaluations did not take place and were needed and President Castillo proposed a 3-member

committee be formed to talk with the employees. Councilmember Boyajian offered to serve on the committee and after brief discussion and by Council consensus the matter was rescheduled for October 19th. President Castillo announced a committee of Councilmembers Boyajian, Sterling and himself would begin dialogue with the two employees.

CONTESTED CONSENT CALENDAR:

(1-B) AWARD A REQUIREMENTS CONTACT TO ABM JANITORIAL OF FRESNO FOR MAINTENANCE AND CUSTODIAL SERVICES AT THE FULTON MALL

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Councilmember Calhoun stated his issue was the cost of maintaining the mall and the city subsidy, noted the mall was not very well patronized and advised vendor revenues were \$23,000 which did not go far towards the \$200,000+ needed to maintain the mall, stated an assessment district or some other creative revenue source might have to be looked at, spoke to the history of the mall including the proposal to open it up to vehicle traffic which he stated would have been a chance for more development and activity, and reiterated the issue was broader than maintenance and questioned how long the contract was for and if there was a cancellation clause, with an unidentified staff member and Assistant City Manager Souza responding, recommending approval, and advising staff would report back on mall maintenance and economics. Councilmember Calhoun made a motion to approve the contract with the understanding that staff will report back in four weeks with a report on mall maintenance policy and economics, which motion was seconded by Councilmember Duncan.

Councilmember Sterling advised she was working with the Downtown Association and they were looking to provide something more equitable for all the vendors in the business improvement area, noted ABM and the Downtown Association were working together to continue to improve the maintenance of the mall, and spoke to the activity on and success of the mall. President Castillo left the meeting at 3:30 p.m. Councilmember Boyajian stated the mall was doing very well, a lot was going on, and it was on its way and explained. Councilmember Duncan stated he could provide staff with up to date sales tax figures for the mall so Council could see what the trend has been over the past ten years, and spoke to the need to call the Fulton Mall either a shopping center or a park stating it could not be both which it has been called whenever it supports an argument for its current situation and explained.

(5 - 0) On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, a three-year requirements contract with two one-year extensions awarded to ABM Janitorial of Fresno in the amount of \$199,404 for maintenance and custodial services on the Fulton Mall, with the understanding that staff will report back in four weeks on the Fulton Mall maintenance policy and economics, by the by following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling
Noes :	Boyajian
Absent :	Castillo

(1-E) ACCEPT AWARD OF \$125,000 FROM THE U.S. DEPARTMENT OF JUSTICE (DOJ), OFFICE OF COMMUNITY ORIENTED POLICING, FOR THE COPS IN SCHOOLS 2004 GRANT PROGRAM

1. RESOLUTION NO. 2004-366 - 27TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$67,300 FROM THE FRESNO COUNTY OFFICE OF EDUCATION AND \$31,500 IN GRANT FUNDS FROM THE DEPARTMENT OF JUSTICE FOR THE PROGRAM

2. RESOLUTION NO. 2004-367 - 12TH AMENDMENT TO PAR 2004-210 FOR THE COPS IN SCHOOLS GRANT PROGRAM

City Manager Hobbs advised President Castillo's questions had been answered.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-366 and 204-367 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Sterling, Perea
Noes :	None
Absent :	Castillo

(1-I) APPROVE SECOND AMENDMENT TO THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM SUB-RECIPIENT AGREEMENT BETWEEN THE CITY OF FRESNO AND THE HOUSING AUTHORITY OF THE CITY OF FRESNO TO EXTEND THE PROJECT COMPLETION DATE

Councilmember Calhoun noted he had concerns last year with the agreement to rehabilitate 104 in one year and voted against it, stated he wished he had been proved wrong and expressed concern with this amendment to give one more year to try to meet the goal, stated if these federal dollars could not be spent Council should divert any additional dollars and put them into something that has a direct impact on homes, and questioned why only 30 of the proposed 104 homes have been rehabilitated and how the Housing Authority feels they can catch up by July.

Ned Stacey, Executive Director of the Housing Authorities of the City and County of Fresno, responded stating the issue was the time it took to market the new program and get people interested, and spoke to the applications that were currently in the process and how they would easily complete the balance of the numbers needed for the contract.

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Mr. Stacey responded at length to questions, comments and/or concerns of Councilmember Sterling relative to the program, applications currently in the process, the process for applicants, if the Housing Authority has stopped processing additional applications, if applicants are being informed on funding availability and/or lack thereof, funding balance, if the quota will be met, if the Redevelopment Agency program will be looked at to meet the quota, need to stop taking applications and complete those in the process, and need to notify people who have submitted applications and have heard nothing.

Mr. Stacey responded briefly to questions of Councilmember Boyajian relative to the HOME program with Councilmember Boyajian clarifying issues also arose with the HOME program but it was very successful now, commended Housing Authority staff stating they were doing a great job and being very pro-active, and stated people simply needed to be told "first come, first served" or wait for the next funding cycle. Councilmember Dages stated the success of the program was great, just like the Self Help program, and made a motion to approve staff's recommendation, which motion was seconded by Councilmember Duncan.

Councilmember Calhoun stated the city was contracting with the Housing Authority and it was up to the city on how to disburse funds, again questioned why there was a delay stressing the city was accountable for the funds, and upon further question Planning & Development Director Yovino stated staff was comfortable that the funds would be expended.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the Second Amendment to the Sub-recipient Agreement between the City and the Housing Authority to extend the project's completion date from August 31, 2004 to June 30, 2005, hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

(2:30 P.M.) PUBLIC COMMENT PERIOD:

(A) SCHEDULED PUBLIC COMMENT - APPEARANCE BY ROBERT ROGERS TO DISCUSS THE RESTORATION AND ADDING OF STORES ON THE FULTON MALL

Appearance made; no action taken.

(2:40 P.M.) HISTORIC PRESERVATION - CONSIDER NOMINATIONS TO THE LOCAL REGISTER OF HISTORIC RESOURCES
c. RESOLUTION - DESIGNATING THE DALE BROTHER'S COFFEE CAN SIGN, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES
d. RESOLUTION - DESIGNATING THE CEARLY-TWINING HOME, LOCATED AT 625 E. HOME AVENUE, TO THE LOCAL

REGISTER OF HISTORIC RESOURCES

e. RESOLUTION - DESIGNATING THE NIS JOHNSON HOME, LOCATED AT 601 E. PINE AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

f. RESOLUTION - DESIGNATING SHAM'S RIO GRANDE SERVICE STATION, LOCATED AT 205 FULTON STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

President Castillo announced the time had arrived to consider the issue, opened the hearing, and clarified Items "a" and "b" were continued for two weeks during approval of the agenda.

Historic Preservation Project Manager Hattersley-Drayton gave an overview of the above items, all as contained in the staff report as submitted, and recommended the resolutions be adopted.

Upon call, no one wished to be heard and President Castillo closed the public hearing (which hearing was subsequently reopened due to speakers who were overlooked).

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Ms. Hattersley-Drayton and City Attorney Montoy responded to questions of Councilmember Calhoun relative to the coffee can sign and whether there were any issues/concerns similar to those that were expressed with the Crest Theater Sign. A motion and second was made to adopt the resolutions as recommended.

President Castillo noted some members of the public who signed up to speak were overlooked and re-opened the hearing.

Jeanette Jurkovich, 1130 W. Roberts, and Matthew Maroot, 1432"H" Street, spoke in support of staff's recommendations.

Upon call, no one else wished to be heard and President Castillo closed the public hearing.

Discussion ensued. Councilmember Sterling spoke to the history of the Bethel Lutheran Church and the possibility of it being designated a historic site. Councilmember Duncan stated he supported items "d", "e" and "f" but he had the same concerns with the coffee can sign (Item "c") that he had with the Crest Theater Sign (6 - 0) in that designations get people off the hook relative to maintenance, stated he supported waiting for the survey and dealing with the entire picture, added it would be a mistake to approve the designation without obtaining a guarantee from the owners that the sign would be maintained, and requested the coffee can item be voted upon separately, which request was accepted by the motion-makers. Ms. Hattersley-Drayton, Planning & Development Director Yovino and Mr. Maroot responded to questions and comments of Councilmembers Duncan and Boyajian and/or clarified issues relative to policy for maintaining historic buildings, why historic buildings downtown such as the Hotel Fresno are falling apart, and if there were any plans to move the coffee can sign.

Acting President Perea briefly spoke in support of the issue and thanked Ms. Hattersley-Drayton for all her work and leadership.

c. RESOLUTION NO. 2004-368 - DESIGNATING THE DALE BROTHER'S COFFEE CAN SIGN, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-368 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes : Duncan
Absent : None

d. RESOLUTION NO. 2004-369 - DESIGNATING THE CEARLY-TWINING HOME, LOCATED AT 625 E. HOME AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

e. RESOLUTION NO. 2004-370 - DESIGNATING THE NIS JOHNSON HOME, LOCATED AT 601 E. PINE AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

f. RESOLUTION NO. 2004-371 - DESIGNATING SHAM'S RIO GRANDE SERVICE STATION, LOCATED AT 205 FULTON STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-369, 2004-370 and 2004-371 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

UNSCHEDULED COMMUNICATION:

THANK YOU TO COUNCIL MEMBERS WHO ATTENDED THE LUNCH AND TOUR OF THE LEGION OF VALOR (VETERAN'S) MUSEUM - COUNCILMEMBER CALHOUN

Thank you extended.

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ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:34 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

APPROVED on the ____19th____day of ____October____, 2004.

_____/s/____ATTEST:_____/s/____

Brad Castillo, Council President

Yolanda Salazar, Assistant City Clerk

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